

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10  
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
/066 W

-----091929 232035Z /63

R 231535Z MAY 78  
FM AMCONSUL STUTTGART  
TO SECSTATE WASHDC 4348  
AMEMBASSY BONN  
INFO AMEMBASSY PARIS  
AMCONSUL BREMEN  
AMCONSUL DUSSELDORF  
AMCONSUL FRANKFURT  
AMCONSUL HAMBURG  
AMCONSUL MUNICH  
USMISSION USBERLIN  
USCINCEUR VAIHINGEN GE  
CINCUSAREUR HEIDELBERG GE

LIMITED OFFICIAL USE SECTION 1 OF 2 STUTTGART 0997

USCINCEUR AND CINCUSAREUR FOR POLADS

E.O. 11652: N/A  
TAGS: PINT, GW  
SUBJECT: FILBINGER'S TRIAL(S) AND TRIBULATIONS

REF: A) STUTTGART 905 B) STUTTGART 917

1. SUMMARY. EVEN BEFORE VERDICT IN HIS LAWSUIT IS HANDED DOWN  
MAY 23, MINISTER-PRESIDENT FILBINGER HAS NEW TROUBLES FOLLOWING  
DIVULGATION BY DER SPIEGEL OF 1935 ARTICLE FILBINGER AUTHORED  
SEEMING TO SUPPORT NAZI RACIAL THEORIES. FILBINGER LAMELY TOLD  
PRESS ARTICLE SIMPLY REFLECTED VIEWS HE HAD HEARD AND HIS READING  
WHILE A LAW STUDENT BUT DID NOT REPRESENT HIS PERSONAL VIEWS.

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FILBINGER IS FURTHER ENMESHED IN CONTROVERSY OVER EXTREMISTS  
DECREE, WHEREIN HE HAS ADVANCED POSSIBLY SELF-SERVING VIEW THAT  
PERSONS SHOULD NOT BE PENALIZED FOR "ERRORS OF YOUTH." PARALLEL  
SEEMS BOUND TO BE MADE BETWEEN FILBINGER AND JUSTICE MINISTER  
PUVOGEL, WHO RESIGNED EARLIER THIS YEAR AS JUSTICE MINISTER OF  
LOWER SAXONY WHEN IT WAS LEARNED HE HAD AUTHORED IN 1936 A  
DISSERTATION ON RACE DISCRIMINATION THEORIES. END SUMMARY.

2. BADEN-WUERTTEMBERG MINISTER-PRESIDENT FILBINGER'S TROUBLES ARE HARDLY ABOUT TO END WHEN THE STUTTGART COURT HANDS DOWN ITS DECISION TODAY (MAY 23) IN FILBINGER'S SUIT AGAINST AUTHOR ROLF HOCHHUTH, EVEN IF THE VERDICT GOES AGAINST HOCHHUTH. THE LAWSUIT HINGES ON FILBINGER'S ACTIONS AT THE END OF THE WAR, WHERE HIS DEFENSE -- THAT HE WAS JUST CARRYING OUT ORDERS -- HAS SOME LOGIC TO SUPPORT IT EVEN THOUGH IT MAY SOUND A BIT HOLLOW. HOWEVER, THIS WEEK'S DER SPIEGEL HAS DELVED A BIT FURTHER INTO FILBINGER'S PAST AND HAS UNEARTHED SOMETHING THAT MAY BE EVEN MORE DAMAGING TO HIM AND TO HIS FUTURE THAN HAGGLING OVER WHAT HE DID OR SHOULD HAVE DONE WHILE IN UNIFORM UNDER THE THIRD REICH. DER SPIEGEL QUOTES FROM AN ESSAY WHICH FILBINGER WROTE ON THE SUBJECT OF NATIONAL SOCIALIST CRIMINAL LAW AND WHICH WAS PUBLISHED IN THE SUMMER OF 1935 IN THE NEWSPAPER OF THE CATHOLIC YOUTH MOVEMENT "NEUDEUTSCHLAND." IN THE ARTICLE FILBINGER NOTED THAT UNDER NAZI LAW COMMUNITY TIES WERE ABOVE ALL BLOOD TIES WHICH "MUST BE PRESERVED IN THEIR PURITY AND THE RACIALLY VALUABLE ELEMENTS OF THE GERMAN PEOPLE MUST BE SYSTEMATICALLY BROUGHT TO THE FORE."

3. THE LATEST SPIEGEL ARTICLE OBVIOUSLY WAS AT THE CENTER OF PRESS INTEREST ON MAY 22 ON THE OCCASION OF FILBINGER'S TRADITIONAL MEETING WITH THE PRESS FOLLOWING THE WEEKLY MEETING OF HIS CABINET. FILBINGER DID NOT DENY HAVING WRITTEN THE ARTICLE. HE SAID, HOWEVER, THAT THE ARTICLE WAS ONLY A SUMMARY OF WHAT HE HAD HEARD AS A STUDENT DURING LECTURES AT THE UNIVERSITY OF FREIBURG LIMITED OFFICIAL USE

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AND OF WHAT HE HAD READ IN CERTAIN PUBLICATIONS, SOME OF WHICH HE HAD QUOTED IN THE ARTICLE. THE ARTICLE DID NOT, HOWEVER, REFLECT HIS OWN THOUGHTS, SAID FILBINGER, AND HE DENIED HAVING HIMSELF HARBORED THE VIEWS ABOUT WHICH HE HAD WRITTEN. HENCE, HE SAID, THE ARTICLE WAS IN NO WAY TO BE INTERPRETED AS INDICATIVE OF COMMITMENT TO NAZI BELIEFS. FILBINGER CHARGED THAT DER SPIEGEL WAS OBVIOUSLY ENGAGED IN A SYSTEMATIC CAMPAIGN AIMED AT INFLUENCING THE OUTCOME OF THE 1980 LANDTAG ELECTION IN BADEN-WUERTTEMBERG. HE ALSO EXPRESSED THE OPINION THAT THE FAR LEFT WAS LIKEWISE BEHIND THE ATTACKS ON HIM IN AN EFFORT TO DISTRACT PUBLIC ATTENTION FROM THEIR (THE LEFT'S) EFFORTS TO DESTROY DEMOCRATIC INSTITUTIONS.

4. TO COMPLICATE MATTERS STILL FURTHER FILBINGER NOW FINDS HIMSELF ENMESHED IN CONTROVERSY OVER THE "EXTREMISTS DECREE" COMMONLY REFERRED TO AS THE "BERUFSVERBOT," WHICH PERMITS THE BANNING OF EXTREMISTS AND RADICAL ELEMENTS FROM EMPLOYMENT IN THE CIVIL SERVICE. INTERESTINGLY ENOUGH, THIS LATEST CONTROVERSY SEEMS TO HAVE BEEN SPARKED BY FILBINGER'S LATEST ADDITION TO HIS CABINET, MINISTER OF SCIENCE HELMUT ENGLER (STUTTGART 0946).

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L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
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USCINCEUR AND CINCUSAREUR FOR POLADS

IN AN INTERVIEW PUBLISHED IN THE STUTTGARTER NACHRICHTEN ON  
MAY 19, WHICH EVEN AN SPD SPOKESMAN IN THE LANDTAG GREETED AS  
"A RAY OF LIGHT ON THE USUALLY DARK HORIZON," ENGER TOOK PAINS  
TO DISTANCE HIMSELF FROM THE EXTREMISTS DECREE AS CURRENTLY  
IMPLEMENTED. IN PRACTICE, HE SAID, IT DOESN'T WORK BECAUSE OF  
FAULTY SCREENING; ONLY THE LITTLE FELLOW GETS CAUGHT BUT THE  
CLEVER ONES GET BY AND INTO THE CIVIL SERVICE. AN ENEMY OF THE  
CONSTITUTION CLEARLY HAS NO PLACE IN THE CIVIL SERVICE, SAID  
ENGLER, BUT THE PROBLEM WAS WITH THE DIFFICULTY OF DISMISSING  
CIVIL SERVANTS WHO FAIL TO RESPECT THE BASIC LAW. IF DISMISSAL  
WERE POSSIBLE THEN HE WOULD FAVOR THE IMMEDIATE REPEAL OF THE  
EXTREMISTS DECREE.

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5. QUESTIONED IN TURN ABOUT THE EXTREMISTS DECREE AT HIS MAY 22 MEETING WITH THE PRESS, FILBINGER SAID THAT HE TOO WAS STILL OF THE OPINION THAT ENEMIES OF THE CONSTITUTION HAD NO PLACE IN THE CIVIL SERVICE. HOWEVER, IT WAS NECESSARY TO ENSURE THAT SCRUTINY OF THE POLITICAL LOYALTY OF APPLICANTS DID NOT ITSELF GENERATE MISUNDERSTANDINGS THAT COULD BE HARMFUL TO THEIR CHANCES. IN THIS CONNECTION, SAID FILBINGER, HE HAD SET UP AN INTER-MINISTERIAL WORKING GROUP ABOUT SIX WEEKS AGO TO STUDY WAYS OF ENSURING THAT APPLICANTS FOR CIVIL SERVICE JOBS WERE NO LONGER TAKEN TO TASK FOR WHAT COULD PERHAPS BE DISMISSED AS "THE ERRORS OF YOUTH." WHAT SOMEONE DID IN THE PAST, SAID FILBINGER, WAS NOT NECESSARILY OF IMPORTANCE TODAY.

6. FOR THE CDU FRAKTION LEADER IN THE LANDTAG, FILBINGER'S REMARKS WERE OF COURSE DEEMED FULLY CONSONANT WITH THE MAN'S "DEMOCRATIC CONVICTIONS." THE SPD SPOKESMAN, HOWEVER, FOUND IT "THE HEIGHT OF IMPUDENCE" THAT FILBINGER WOULD NOW CLAIM TO SEE THE FAR LEFT AS THE CAUSE OF ALL HIS TROUBLES. JURGEN MORLOK, NEW LAND CHAIRMAN OF THE FDP, ALSO CASTIGATED FILBINGER FOR BEING SO QUICK TO BLAME THE LEFT OR TERRORISM FOR EVERYTHING THAT RUBS HIM THE WRONG WAY AND DOES NOT FIT IN WITH HIS PLANS. ALL OF WHICH HAS PROMPTED GEBHARD MUELLER, FORMER MINISTER-PRESIDENT OF BADEN-WUERTTEMBERG, TO WARN OF "A DEADLY POISONING OF PUBLIC LIFE WITH FATAL CONSEQUENCES."

7. COMMENT: FILBINGER'S EFFORT TO EXPLAIN AWAY THE 1935 ARTICLE IS A WEAK AND HARDLY PERSUASIVE DEFENSE. AND THERE WILL INEVITABLY BE WONDER WHETHER FILBINGER HAS IN MIND SO MUCH THE APPLICANT FOR A LOWLY CIVIL SERVICE POSITION AS HE DOES THE YOUNG FILBINGER, FRESH OUT OF LAW CLASSES AT FRIEBURG IN NAZI GERMANY, WHEN TODAY HE WARNS AGAINST PENALIZING SOMEONE FOR "THE ERRORS OF YOUTH." DER SPIEGEL HAS FOUND ANOTHER STAIN ON FILBINGER'S WHITE SHIRT

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(REF A) AND THIS ONE MAY BE MUCH HARDER THAN THE FIRST TO REMOVE. AND UNFORTUNATELY FOR FILBINGER, THE MORE SPOTS THAT APPEAR THE MORE DILIGENTLY WILL DER SPIEGEL AND OTHER RESEARCHERS NOW PROBABLY HUNT FOR EVEN MORE. A DISSERTATION WRITTEN IN 1936 SUPPORTING RACE DISCRIMINATION THEORIES WAS, AFTER ALL, ENOUGH TO BRING ABOUT THE RESIGNATION LAST MARCH OF DR. PUVOGEL, MINISTER OF JUSTICE IN LOWER SAXONY (HAMBURG 454). BUT THEN, DR. PUVOGEL WASN'T MINISTER-PRESIDENT. MILLER

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LITIGATION, PRESS COMMENTS, WAR CRIMES, TRIALS, COURT PROCEEDINGS, ALLEGATIONS  
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**Copy:** SINGLE  
**Draft Date:** 23 may 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
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**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
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**Reference:** 78 STUTTGART 905, 78 STUTTGART 917  
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**Review Transfer Date:**  
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**Status:** NATIVE  
**Subject:** FILBINGER'S TRIAL(S) AND TRIBULATIONS  
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**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014